

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to summary orders filed after January 1, 2007, is permitted and is governed by this court's Local Rule 32.1 and Federal Rule of Appellate Procedure 32.1. In a brief or other paper in which litigant cites a summary order, in each paragraph in which a citation appears, at least one citation must either be to the Federal Appendix or be accompanied by the notation: "(summary order)." A party citing a summary order must serve a copy of that summary order together with the paper in which the summary order is cited on any party not represented by counsel unless the summary order is available in an electronic database which is publicly accessible without payment of fee (such as the database available at <http://www.ca2.uscourts.gov/>). If no copy is served by reason of the availability of the order on such a database, the citation must include reference to that database and the docket number of the case in which the order was entered.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, at 500 Pearl Street, in the City of New York, on the 19th day of July, two thousand and seven.

PRESENT:

JOSÉ A. CABRANES  
JOSEPH M. McLAUGHLIN  
*Circuit Judges*  
RICHARD W. GOLDBERG<sup>1</sup>  
*Judge*

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CHENG YANG LIN,

*Petitioner,*

v.

No. 04-1316-ag

BOARD OF IMMIGRATION APPEALS,

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<sup>1</sup>The Honorable Richard W. Goldberg, of the United States Court of International Trade, sitting by designation.

*Respondent.*

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**APPEARING FOR PETITIONER:**

GARY J. YERMAN, New York, NY.

**APPEARING FOR RESPONDENT:**

CHRISTOPHER P. MCGREAL, Trial Attorney,  
Office of Immigration Litigation, Civil  
Division, United States Department of Justice,  
Washington, DC.

**UPON CONSIDERATION** of this petition for review of a decision of the Board of Immigration Appeals (“BIA”), it is hereby **ORDERED, ADJUDGED, AND DECREED** that the petition for review is **DENIED**.

Petitioner Cheng Yang Lin, a.k.a. Chun Yang Lin, a native and citizen of the People’s Republic of China, seeks review of a February 25, 2004 decision of the Board of Immigration Appeals (“BIA”) affirming an August 21, 2002 decision by Immigration Judge (“IJ”) Roxanne C. Hladylowycz that denied petitioner’s application for asylum, withholding of removal, and relief pursuant to the Convention Against Torture (“CAT”). *See In Re: Cheng Yang Lin*, No. A 77 353 726 (B.I.A. Feb. 29, 2004), *affg In Re.: Cheng Yang Lin*, No. A 77 353 726 (Immig. Ct. N.Y. City Aug. 21, 2002). The underlying facts and procedural history are a matter of record and we recount here only those aspects that are pertinent to the disposition of the case.

Petitioner claims he is eligible for asylum because the woman whom he married in a traditional ceremony (but not legally) was forcibly sterilized. 8 U.S.C. §1101(a)(42) (providing that a person who has been forced to abort a pregnancy or under go involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure, is deemed to have been persecuted on account of political opinion). The IJ found that he was not credible and dismissed his application on that basis. He claims on appeal that the IJ’s adverse credibility finding was not supported by substantial evidence and that, to the extent any discrepancies or omissions exist, they are not central to his asylum claim, his withholding of removal claim, or his CAT claim. We find no basis for concluding the IJ’s credibility finding was erroneous. In any event, assuming *arguendo* that petitioner is credible, we conclude that he is not eligible for asylum solely on the basis of the alleged sterilization of his purported spouse. *See Shi Liang Lin v. U.S. Dep’t of Justice*, \_\_\_ F.3d \_\_\_, Nos. 02-4611-ag, 02-4629-ag, 03-40837-ag, 2007 U.S. App. LEXIS 16842 (2d Cir. July 16, 2007) (*en banc*).

We have considered all petitioner’s claims and find them to be without merit. Accordingly, the petition for review is hereby **DENIED**.

FOR THE COURT,

Catherine O’Hagan Wolfe, Clerk of Court

By \_\_\_\_\_